

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

REC'D 07 SEP 2004

Ree'd PCT/EP 26 SEP 2004

PCT  
10/553428

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

<p>To:</p> <p style="text-align: center;">see form PCT/ISA/220</p>		<p>Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)</p>	
<p>Applicant's or agent's file reference see form PCT/ISA/220</p>		<p><b>FOR FURTHER ACTION</b> See paragraph 2 below</p>	
<p>International application No. PCT/NL2004/000280</p>	<p>International filing date (day/month/year) 28.04.2004</p>	<p>Priority date (day/month/year) 28.04.2003</p>	
<p>International Patent Classification (IPC) or both national classification and IPC A62C2/06, A62C3/16</p>			
<p>Applicant BEELE ENGINEERING B.V.</p>			

**1. This opinion contains indications relating to the following items:**

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

**2. FURTHER ACTION**

If a demand for International preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1 b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

<p>Name and mailing address of the ISA:</p> <p>            European Patent Office - P.B. 5818 Patentlaan 2            NL-2280 HV Rijswijk - Pays Bas            Tel. +31 70 340 - 2040 Tx: 31 651 epo nl            Fax: +31 70 340 - 3016</p>	<p>Authorized Officer</p> <p>Triantaphillou, P</p> <p>Telephone No. +31 70 340-2785</p>
---	---



**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/NL2004/000280

**Box No. I Basis of the opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - a sequence listing
    - table(s) related to the sequence listing
  - b. format of material:
    - in written format
    - in computer readable form
  - c. time of filing/furnishing:
    - contained in the international application as filed.
    - filed together with the international application in computer readable form.
    - furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/NL2004/000280

**Box No. II Priority**

1.  The following document has not been furnished:

- copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).  
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2.  This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or  
Industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)                  Yes: Claims      1-18  
                                No: Claims

Inventive step (IS)           Yes: Claims      1-18  
                                No: Claims

Industrial applicability (IA)   Yes: Claims      1-18  
                                No: Claims

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.  
PCT/NL2004/000280

**Re Item V.**

- 1 The following documents are referred to in this communication:  
D1 : WO 93/22814 A (B & K SOUTHERN LTD ;HACLIN GRAHAM JOHN (GB)) 11 November 1993 (1993-11-11)
- 2 Document D1, which is considered to represent the most relevant state of the art, discloses (the references in parenthesis applying to this document):  
*"A fire-resistant material based on an elastomeric foam [with a substantially closed cell structure] in which foam at least one crust-forming fire-retardant material and a pH neutralized graphite material are incorporated."*  
From this, the subject-matter of independent claim 1 differs in that:  
*"[the] elastomeric foam [has] a substantially closed cell structure"*
- 2.1 The subject-matter of claim 1 is therefore novel (Article 33(2) PCT)  
The problem to be solved by the present invention may be regarded as:  
*Improving the fire resistant properties of a packing material, notably the length of time and integrity.*
- 2.2 The solution to this problem proposed in claim 1 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons:  
*The closed cellular structure of the material does not allow the crust forming material to expand outwards from the packed opening which allows the beginning of disintegration, giving a more robust and space restricted packing which in turn can withhold the fire for a longer time.*
- 2.3 Independent claims 5, 6 & 15-18 are all referring to the use of this novel fire resistant material and as such also meet the requirements of the PCT with respect to novelty and inventive step.
- 2.4 Claims 2-4 & 7-14 are dependent on claims 1 and 5 & 6 respectively and as such also meet the requirements of the PCT with respect to novelty and inventive step.

\*\*\*\*\*